

ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT)
GUIDELINES
FOR ENCROACHMENT PERMITTEE'S
STATE AND FEDERAL ENVIRONMENTAL REGULATIONS

The applicant must submit a signed statement from a qualified firm (see Appendix A) certifying that the applicant has complied with the following laws and regulations:

National Historic Preservation Act:

The applicant must certify that area of proposed incursion has been surveyed by a qualified archaeologist (36 CFR 61 – Attached) and that the proposed activity will not impact any historic or prehistoric cultural resource eligible for the National Register of Historic Places.

The applicant must also submit a signed statement from a qualified firm certifying with appropriate and updated training/certifications that the applicant has complied with the following laws and regulations:

Clean Air Act

If the applicant's work will include the demolition of any concrete facilities, the applicant must certify that they have met the requirements of the National Emission Standards for Hazardous Air Pollutants (NESHAP). NESHAP notification is required 10 working days prior to demolition. In addition, it applies to more than just concrete structures

Clean Water Act:

Section 401/404

The applicant must certify that either:

- a) The proposed work will not involve discharges to Waters of the US
- b) Or that the activity qualifies for a notifying Nationwide Permit from the US Army Corps of Engineers (Corps) and that the applicant has received concurrence from the Corps to proceed with the work and will implement all required project specific mitigation measures, Section 404 General Conditions and State Water Quality 401 conditions.
- c) Or that the activity qualifies for a non-notifying Nationwide Permit and that the work will comply with all Section 404 General Conditions and State Water Quality 401 conditions.
- d) Or that the applicant has received an Individual Permit from the Corps and that the work will comply with all conditions of the Individual Permit.

Section 402

If the proposed work will exceed 1 acre of disturbance then the applicant must prepare a Storm Water Pollution Prevention Plan (SWPPP) for the project and submit a Notice of Intent (NOI) to the Arizona Department of Environmental Quality (ADEQ) and/or the U.S. Environmental Protection Agency (EPA). One copy of the SWPPP is to be submitted for comments by ADOT District Environmental Coordinator. The applicant will address comments in their SWPPP before commencing any construction. Upon project completion the applicant will submit a Notice of Termination (NOT) to the ADEQ and/or the EPA.

The Endangered Species Act:

The applicant must verify that the proposed project will not affect any species listed as Endangered, Threatened, or Candidate by the United States Fish and Wildlife Service under the Endangered Species Act. The applicant must also verify that the proposed project will not affect any species listed as Endangered, Threatened, or Candidate by the Arizona Game & Fish under the Arizona Natural Heritage Program (HDMS).

Arizona Native Plant Law:

If the applicant's project will remove or destroy protected native plants over an area of right-of-way that exceeds one-fourth acre the Permittee shall notify the Arizona Department of Agriculture at least 60 days prior to the start of construction to afford commercial salvagers the opportunity to remove and salvage these plants.

If the Encroachment is for an Industrial Development ADOT reserves the right to request and review the Industrial SWPPPs that discharges into ADOT's drainage facilities or that discharge to an MS4, as per 40 CFR Part 122.26.

An audit may be performed on environmental self certified parties by ADOT. The environmental responsible party will provide all necessary document for compliance upon request.

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Appendix A to Part 61-Professional Qualifications Standards

In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

(a) History. The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

(1) At least two years of full-time experience in research, writing, teaching, interpretation or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or

(2) Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

(b) Archeology. The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology or closely related field plus:

(1) At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;

(2) At least four months of supervised field and analytic experience in general North American archeology; and

(3) Demonstrated ability to carry research to completion.

In addition, to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

(c) Architectural history. The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, history preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, history preservation, or closely related field plus one of the following:

(1) At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

(2) Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

(d) Architecture. The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time professional experience in architecture; or a State license to practice architecture.

(e) Historic Architecture. The minimum professional qualifications in historic architecture are a professional degree in architecture of State license to practice architecture, plus one of the following:

(1) At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or

(2) At least one year of full-time professional experience on historic preservation projects. Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specification for preservation projects.

Attachment "A"

Archaeological Clearance Notification

Cultural survey specifications and responsibilities:

In accordance with the Arizona State Historic Preservation Act, ADOT must consider the effects of its actions, including the issuance of permits, on historic properties. It is the Permittee's responsibility to obtain documents indicating that the proposed permit would not affect historic properties or, if it would affect such properties, to provide documentation attesting to the mitigation of those effects, prior to beginning excavation work within ADOT Rights of Ways. Such documentation may include concurrence on the effect from the State Historic Preservation Office or a data recovery plan approved by the Arizona State Museum (in the case of mitigative data recovery).

Archaeological Features:

The attention of the Permittee is directed to the Arizona Revised Statutes §41-841 through 846 and §41-861 through 865. Violation of A.R.S. §41-841 through 845 is a Class 2 misdemeanor. Violation of A.R.S. §41-861 through 865 can be classified as either a Class 1 misdemeanor or a Class 5 felony..

Section 6(a) of the Federal Archaeological Resources Protection Act of 1979 specifies that no person may excavate, remove, damage or otherwise alter or deface any archaeological resource located on public (Federal) lands or Indian lands unless such activity is pursuant to a permit issued under Section 4 of the Act. Violations of this act are considered a felony, and are punishable by fine and imprisonment.

Although the permittee will be responsible to make every effort prior to construction to identify all cultural resources in a permit area, previously unidentified archaeological materials could be found during the construction of the permit. When historic or archaeological features are encountered or discovered during any activity related to construction of the permit, the permittee shall stop work immediately at that location, and shall take all reasonable steps to secure the preservation of those features.

The permittee shall immediately contact ADOT's Historic Preservation Team, listed below and the ADOT District Permits Office that issued the permit and make arrangements for the proper treatment of such resources. The permittee shall not resume work until he/she is so directed by the Arizona Department of Transportation.

Environmental Planning Group

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